

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

Case No. 1:11-CV-02446  
Gwin, J.

Failure to object within this time waives a party's right to appeal the district court's judgment.<sup>6/</sup>

Absent objection, a district court may adopt the magistrate judge's report without review.<sup>7/</sup>

In this case, Payne has not filed any objection to the Report & Recommendation. Moreover, having conducted its own review of the record and the parties' briefs, the Court agrees with the recommendation of Magistrate Judge McHargh that the petition should be dismissed.

Accordingly, the Court **ADOPTS** Magistrate Judge McHargh's Report and Recommendation and incorporates it fully herein by reference, and **DENIES** Payne's petition for a writ of habeas corpus. Further, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability.<sup>8/</sup>

IT IS SO ORDERED.

Dated: February 21, 2013

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>6/</sup>[Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981).

<sup>7/</sup>See [Thomas](#), 474 U.S. at 149.

<sup>8/</sup>[28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).